

STATE OF INDIANA

IN THE LAKE CIRCUIT / SUPERIOR COURT

LAKE COUNTY

SITTING IN LAKE COUNTY, INDIANA

WAYNE LEPORE,

Plaintiff,

v.

MENARD, INC.,

Defendant.

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CAUSE NO.:

COMPLAINT FOR DAMAGES AND JURY DEMAND

COMES NOW, the Plaintiff, Wayne LePore, by Counsel, Ryan J. Schoffelmeer, of Walter J. Alvarez, P.C., and for his cause of action against the Defendant, Menard, Inc., now states as follows:

1. This is a civil action for injuries and damages that the Plaintiff, Wayne LePore, sustained as a result of an incident involving an escalator, which occurred on or about July 13, 2021, on the premises of the Defendant, Menard, Inc., located at or near 1300 U.S. Highway 41, in Schererville, Lake County, State of Indiana.

2. At said date and time, the Plaintiff was lawfully on the premises of the Defendant as an invitee and with the permission of, and for the benefit of, the Defendant.

4. At said date and time, due to the negligence of the Defendant, the Plaintiff was pinned / trapped, due to an unsafe / dangerous / broken escalator, sustaining injuries.

5. That the Defendant had a duty to the Plaintiff to maintain the premises and escalator in a reasonably safe condition, and that the Defendant was negligent regarding same.

6. That the Defendant's negligence includes, but is not limited to, all of the following:

a. Failing to provide a reasonably safe walkway for invitees to use;

- b. Failure to exercise reasonable care to discover a dangerous condition which provided an unreasonable risk of harm to Plaintiff;
- c. Failing to operate the establishment in a reasonably careful and prudent manner;
- d. Failure to exercise reasonable care to protect invitees against danger, when the Defendant knew, or should have known that its invitees would not realize the danger or would fail to protect themselves against said danger;
- e. Failing to follow recommendations that would prevent this aforementioned hazard;
- f. Failing to use the requisite degree of care that a reasonably prudent person would have used under the same or similar conditions;
- g. Failure to exercise reasonable and prudent care for the safety of their invitees;
- h. Negligent hiring and/or training and/or supervision of individuals, employees, and/or other entities;
- i. Failing to adequately maintain the premises in a safe condition and/or alert the Plaintiff of the unsafe and/or dangerous conditions; and
- j. Failure to comply with the doctrine of spoliation of evidence, pursuant to Indiana law, to maintain and preserve evidence.

7. In addition, this cause of action also arises under the legal theories of negligence *per se*; *res ipsa*; and strict liability. Moreover, escalators are classified as commercial carriers pursuant to Indiana law; thus, requiring the implementation of a higher duty of care by the Defendant.

8. That a direct and proximate result of the negligence of the Defendant, the Plaintiff suffered injuries, some of which are permanent, incurred medical expenses for care, testing and treatment, suffered loss of wages and earning ability, and an inability to engage in her normal daily activities for an indefinite period of time.

WHEREFORE, the Plaintiff, Wayne LePore, by Counsel, demands judgment against the

Defendant, Menard, Inc., and prays as follows:

1. For reasonable compensatory damages;
2. For pre-judgment and post-judgment interest;
3. For the costs of this action; and
4. For all other proper relief.

WALTER J. ALVAREZ, P.C.
Attorneys for Plaintiff

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PLAINTIFF DEMANDS TRIAL BY JURY.

WALTER J. ALVAREZ, P.C.
Attorneys for Plaintiff

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